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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,471	09/29/2003	Shinichi Kawano	243104US6	7960
22850	7590	03/22/2007		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER WOOD, WILLIAM H	
			ART UNIT	PAPER NUMBER
			2193	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		03/22/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/22/2007.

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Office Action Summary

Application No.

10/671,471

Applicant(s)

KAWANO ET AL.

Examiner

William H. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/10/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-2, 4-7 and 9-11 are pending and have been examined.

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 10 January 2007 was considered by the examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-8 are rejected under 35 U.S.C. 102(a) as being anticipated by **Gronemeyer** et al. (USPN 6,363,359).

Claim 1

Gronemeyer disclosed a software updating system, comprising:

an update data supplying apparatus for supplying update confirmation information regarding the presence or absence of updates for predetermined software via a network (*figure 4, elements 342 and 344; column 7, lines 56-58, "server"*);

an electronic device for executing a process in accordance with said update confirmation information supplied from said update data supplying apparatus (*figure 4, element 302; column 7, lines 52-54, "client computing device"*), wherein

said electronic device includes:

acquisition means for acquiring update management data indicating a timing for confirming the presence of updates for installed software (*column 6, lines 64-65, the timing of when the sentinel is loaded; additionally column 2, lines 58-65; and further column 7, lines 65-66, once loaded the sentinel acquires timing from its code to perform update with server at the specific timing of a problem during POST*);

storage means for storing said update management data acquired by said acquisition means (*column 6, lines 64-65, the sentinel is stored*);

judging means for judging based on said update management data whether or not, among said installed software, there exists software for which the presence of updates needs to be confirmed (*figure 3, element 202; column 7, lines 25-26*);

detection means for detecting said update data supplying apparatus to which an inquiry is to be made on the presence of updates for said software for which said judging means has judged a confirmation to be necessary (*figure 3, element 206; column 7, lines 31-32*);

inquiring means for making an inquiry on the presence of updates for said software to said update data supplying apparatus detected by said detection means (*figure 3, element 208; column 7, lines 56-58*); and

execution means for executing a process based on said update confirmation information supplied from said update data supplying apparatus in response to said inquiry made by said inquiring means (*figure 3, element 210*),

wherein said update management data is attached to said installed software, and acquisition means of said electronic device acquires said attached update management data from said installed software (*column 7, lines 65-66, once loaded the sentinel acquires timing from its own code, attached to the total base of installed software, to perform update with server at the specific timing of a problem during POST*), and said update data supplying apparatus includes:

confirmation means for confirming the presence or absence of updates for said software regarding which there was an inquiry on the presence of updates by said inquiring means of said electronic device (*column 7, lines 56-58, to send update options those options are first determined, not "available"*); and

supplying means for supplying to said electronic device said update confirmation information in accordance with a confirmation result by said confirmation means (*column 7, lines 56-58*).

Claim 2

Gronemeyer disclosed the software updating system according to claim 1, wherein said update confirmation information is one of update data for updating said software and information indicating the presence or absence of updates (*column 7, lines 56-28*).

Claim 3

Gronemeyer disclosed the software updating system according to claim 1, wherein said update management data is attached to said installed software, and said acquisition means of said electronic device acquires said attached update management data from said installed software (*column 7, lines 25-26, "configuration log"*).

Claim 4

Gronemeyer disclosed the software updating system according to claim 1, wherein said acquisition means of said electronic device acquires said update management data from a developer of said installed software (*column 7, lines 25-26, "configuration log", installed software originates from a developer and further column 2, lines 44-50, shows the development environment to be used by the developer; and column 6, lines 64-65; column 2, lines 58-65; column 7, lines 65-66, for timing, which is coded into the sentinel's functioning by the developer*).

Additionally added limitations correspond to claim 1 and as such are rejected in the manner prescribed above for claim 1.

Claims 5-7 and 9-11

The limitations of claims 5-7 and 9-11 are substantially the same as for claims 1-4 and as such are rejected in the same manner.

Response to Arguments

4. Applicant's arguments filed 21 December 2006 have been fully considered but they are not persuasive. Applicant argues **Gronemeyer** does not disclose "said update management data is attached to said installed software, and acquisition means of said electronic software acquires said attached update management data from said installed software". Applicant further argues, **Gronemeyer** fails to disclose "wherein said acquisition means of said electronic device acquires said update management data from a developer of said software". These arguments are not persuasive.

As demonstrated in the above rejections, **Gronemeyer** demonstrates acquiring timing of updating from the sentinel's own code, which is software which is included among the client's installed software (column 6, lines 64-65, the timing of when the sentinel is loaded; additionally column 2, lines 58-65; and further column 7, lines 65-66, once loaded the sentinel acquires timing from its code to perform update with server at the specific timing of a problem

during POST). This software and corresponding sentinel updating timing is all “attached” as it is all one base of installed software on the client memory.

Further, **Gronemeyer** clearly demonstrates software update timing comes from a developer as a developer must write the sentinel and it’s update timing procedures, which occur during POST after the sentinel is loaded (column 2, lines 44-50, shows the development environment to be used by the developer; and column 6, lines 64-65; column 2, lines 58-65; column 7, lines 65-66, for timing). Therefore, the rejections are maintained as indicated.

Double Patenting rejection is withdrawn in view of now differing claims in the instant application and application 10/694,777.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In

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no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 10:00am - 4:00pm Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571)-272-3756. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see <http://pair-direct.uspto.gov>. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.


William H. Wood
Patent Examiner
AU 2193
March 19, 2007